

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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MARY ANN MULLANEY, derivatively  
on behalf of BIOGEN INC.,

Plaintiff,

v.

GEORGE A. SCANGOS, PAUL J.  
CLANCY, STUART A. KINGSLEY,  
STELIOS PAPADOPOULOS,  
ALEXANDER J. DENNER, CAROLINE  
D. DORSA, NANCY L. LEAMING,  
RICHARD C. MULLIGAN, ROBERT W.  
PANGIA, BRIAN POSNER, ERIC K.  
ROWINSKY, LYNN SCHENK and  
STEPHEN A. SHERWIN,

Defendants,

and

BIOGEN INC.,

Nominal Defendant.

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Civil Action No. 1:17-cv-0042-RGA

**JOINT STIPULATION OF VOLUNTARY DISMISSAL AND ~~PROPOSED~~ ORDER**

Pursuant to Rules 23.1(c) and 41(a) of the Federal Rules of Civil Procedure, plaintiff Mary Ann Mullaney (“Plaintiff”), nominal defendant Biogen Inc. (“Biogen”), and individual defendants George A. Scangos, Paul J. Clancy, Stuart A. Kingsley, Stelios Papadopoulos, Alexander J. Denner, Caroline D. Dorsa, Nancy L. Leaming, Richard C. Mulligan, Robert W. Pangia, Brian Posner, Eric K. Rowinsky, Lynn Schenk and Stephen A. Sherwin (collectively, “Defendants”), by and through their counsel, hereby stipulate to the voluntary dismissal of the above-captioned action with prejudice as to Plaintiff and without prejudice as to all other Biogen shareholders. The parties state as follows:

WHEREAS Plaintiff filed her Verified Shareholder Derivative Complaint (the “Complaint”) on January 13, 2017 (D.I. 1);

WHEREAS pursuant to an Order dated June 13, 2017, this Action has been stayed pending the resolution of the related securities action *Metzler Asset Management GMBH, et al. v. Kingsley, et al.*, (Civil Action No. 16-12101-FDS) (D. Mass.) (the “Securities Action”) (D.I. 21);

WHEREAS on June 27, 2019, the United States Court of Appeals for the First Circuit entered a Memorandum and Order affirming the dismissal with prejudice of the Securities Action (*see* Joint Status Report, D.I. 24);

WHEREAS Plaintiff now seeks to voluntarily dismiss this Action with prejudice as to herself and without prejudice as to all other Biogen shareholders, and Defendants do not oppose such dismissal;

WHEREAS, Rule 23.1(c) of the Federal Rules of Civil Procedure provides that “[a] derivative action may be . . . voluntarily dismissed . . . only with the court’s approval”, and that “[n]otice of a . . . voluntary dismissal . . . must be given to shareholders or members in the manner that the court orders”;

WHEREAS, the parties propose that notice of this voluntary dismissal shall be provided to Biogen shareholders in Biogen’s Form 10-Q to be filed with the U.S. Securities and Exchange Commission (“SEC”) for the quarterly period addressing the quarter during which this Action is dismissed;

WHEREAS, the proposed shareholder notice shall provide substantially as follows:

“On January 13, 2017, a company shareholder filed a complaint in the U.S. District Court for the District of Delaware asserting

derivative claims on behalf of the company against certain of the company's current and former directors and officers alleging that those individuals (i) breached their fiduciary duties by failing to oversee the company's operations, (ii) breached their fiduciary duties and Section 14(a) of the Securities Exchange Act of 1934, as amended and (iii) were unjustly enriched. The complaint sought unspecified damages, interest, attorneys' fees and other costs. The parties filed a Joint Stipulation for Voluntary Dismissal and Proposed Order, which the court granted on [[DATE]].";

WHEREAS, the proposed shareholder notice satisfies the requirements of Rule 23.1 and adequately protects the interests of Biogen and its shareholders for the following reasons: (i) Plaintiff seeks dismissal with prejudice as to herself only and without prejudice as to all other Biogen shareholders; (ii) there has been no settlement or compromise; (iii) there has been no collusion among the parties; (iv) neither Plaintiff nor her counsel has received or will receive any consideration from Defendants for the dismissal; (v) courts routinely permit voluntary dismissal under these circumstances, *see, e.g., Plumbers and Pipefitters Local Union No. 630 Pension-Annuity Trust Fund v. Fontaine*, No. 3:09-cv-04963, 2013 WL 8604586 (N.D. Cal. Dec. 17, 2013) (D.I. 49) (approving joint stipulation of voluntary dismissal where dismissal "will be reported in the Company's Securities and Exchange Commission filings"); *Ironworkers Local No. 25 Pension Fund v. Bogart*, No. 11-cv-04604, 2012 WL 3837771 (N.D. Cal. July 12, 2012) (D.I. 58) (same).

### **RELIEF ORDERED**

**NOW THEREFORE, the parties stipulate and agree, as follows:**

1. The Action is dismissed with prejudice as to Plaintiff and without prejudice as to all other Biogen shareholders;
2. Notice of this Joint Stipulation of Voluntary Dismissal and Proposed Order shall be included in Biogen's Form 10-Q to be filed with the SEC

for the quarterly period addressing the quarter during which this Action is dismissed; and

3. Each party shall bear their own costs and fees.

Dated: August 6, 2019

/s/ Brian D. Long

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**Counsel for Biogen Inc. and the  
Individual Defendants**

IT IS SO ORDERED.

August 6, 2019  
DATED

  
THE HONORABLE RICHARD G. ANDREWS  
UNITED STATES DISTRICT JUDGE